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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.10.2017

Coram:

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM

W.P.NO.15113 OF 2007

M/s. Kodak India Ltd.,
(now known as Kodak India (P.) Ltd.,)
No.183, Vijaya Complex,
Arcot Road, Vadapalani,
Chennai - 600 026.

...Petitioner

Versus

1. The Principal Commissioner and
Commissioner of Commercial Taxes,
Chennai.

2. The Assistant Commissioner (CT),
Fast Track Assessment Circle - IV,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the record of the first respondent in Acts Cell-II/D.Dis/4470/2003 and quash the clarification dated 09.06.2003 issued therein.

For Petitioner : Mr. B. Raveendran
For Respondents : Mrs. Narmadha Sampath,
Special Government Pleader

O R D E R

Heard Mr. B. Raveendran, the learned counsel appearing for the petitioner and Mrs. Narmadha Sampath, the learned Special Government Pleader appearing on behalf of the respondents.

2. The petitioner has challenged the clarification, dated 09.06.2003 issued by the first respondent.

3. The learned counsel appearing for the petitioner has submitted that, a similar issue was considered by the Tamil Nadu Sales Tax Appellate Tribunal (for short, 'Tribunal') in a

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batch of case in Tax Appeal No.225 of 2008, and the Tribunal, by Judgement, dated 30.04.2014, remanded the matter before the Authority for fresh consideration, and as per the direction issued by the Tribunal, the Authority has taken a final decision, which is in favour of the petitioner. Therefore, the learned counsel submitted that, the same would bind the respondent/Department unless and until the Judgment passed by the Tribunal is set aside. As on date, there is nothing on record to show that the Department has filed further Appeal against the Judgment passed by the Tribunal.

4. Thus, in such circumstances, the impugned clarification cannot be enforced against the petitioner, as the issue has been decided by the Tribunal. However, it is made clear that, in case, the State has preferred further Appeal against the judgment of the Tribunal and if any decision has been passed in contrary to the decision of the Tribunal, then, the respondents are at liberty to proceed with the matter in accordance with law.

With the above observations, this Writ Petition is disposed of. No costs.

-Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

To
1. The Principal Commissioner and
Commissioner of Commercial Taxes,
Chennai.

2. The Assistant Commissioner (CT),
Fast Track Assessment Circle – IV,
Chennai.

+ 1 cc to Mr.B.Raveendran, Advocate Sr.No.74664

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